

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 023-11
1533 SAN MIGUEL AVENUE
STREET FRONTAGE MODIFICATION, COASTAL DEVELOPMENT PERMIT,
TENTATIVE SUBDIVISION MAP
JUNE 29, 2011

APPLICATION OF JESSICA KINNAHAN FOLEY, AGENT FOR BRUMMETT FAMILY TRUST, 1533 SAN MIGUEL AVENUE, APN 045-131-002, E-3 (ONE-FAMILY RESIDENCE) AND SD-3 (COASTAL) ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2010-00213) (CDP2011-00008)

The project consists of a proposal to subdivide an existing 24,580 square foot (0.564 acre) parcel into two parcels. Proposed Parcel 1 would be approximately 12,740 square feet (0.292 acres) with an estimated slope of 9%. Proposed Parcel 2 would be approximately 11,840 square feet (0.272 acres) with an estimated slope of 13.4%. The existing development on the site includes a 1,274 square foot single-family residence with a 260 square foot attached one-car garage. A new uncovered parking space would be provided to serve the existing residence on proposed Parcel 2. An existing fence, block walls, patio, patio cover, steps and walkway would be removed, and a new driveway apron would be constructed to provide access to proposed Parcel 1. Proposed Parcel 1 would remain vacant as no development is currently proposed. An existing street tree (Indian Snakeroot) was removed to provide room for the additional driveway apron and two new 24-inch box Evergreen Pear replacement street trees were installed.

The discretionary applications required for this project are:

- 1. <u>Street Frontage Modification</u> to allow proposed Parcel 1 to have 20 feet of street frontage instead of the required 60 feet (SBMC§28.92.110),
- 2. <u>Coastal Development Permit</u> to allow development in the Non-Appealable Jurisdiction of the Coastal Zone (SBMC§28.44.060), and
- 3. <u>Tentative Subdivision Map</u> to allow the division of one parcel into two lots (SBMC 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15315 (Minor Land Divisions).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak with some concerns regarding the application, and the following exhibits were presented for the record:

- 1. Staff Report with Attachments, June 22, 2011.
- 2. Site Plans
- 3. Correspondence received in opposition to the project:
 - a. Brian and Lucy O'Connell, Santa Barbara, CA.

- 4. Correspondence received in concern regarding the project:
 - a Penni K. Frederickson and Joseph Lackerdas, Santa Barbara, CA.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- II. Approved the subject application making the following findings as outlined in Section VII of the Staff Report dated June 22, 2011.
 - A. Street Frontage Modification (SBMC§28.92.110)

A modification of the street frontage is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot. The proposed lot configuration is consistent with other subdivisions in the area that include lots without the required width of street frontage, as discussed in Section V of the Staff Report.

B. Coastal Development Permit (SBMC §28.44.150)

The project is consistent with the policies of the California Coastal Act, the City's Local Coastal Plan, all implementing guidelines and all applicable provisions of the Code because the subdivision is compatible with the existing neighborhood, would not be visible from the beach or impact views from public view corridors, would not impact public access, and would not contribute to safety or drainage hazards on the site, as discussed in Section VI of the Staff Report.

C. The Tentative Map (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the city of Santa Barbara. The site is physically suitable for the proposed development and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems, as discussed in Section VI of the Staff Report.

- III. Said approval is subject to the following conditions, as revised at the hearing:
 - A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
 - 1. Make application and obtain a Building Permit (BLD) for, and complete, the construction of all private improvements (including removal of an existing fence, block walls, patio, patio cover, steps and walkway and construction of one new uncovered parking space) required to ensure the lot is ready for subdivision. Pay Land Development Team Recovery Fee at time of building permit application.
 - 2. Make application and obtain a Public Works Permit (PBW) for all required public improvements and **complete** said improvements.
 - 3. Make application and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
 - 1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on <u>June 29, 2011</u> is limited to the subdivision of an existing 24,580 square foot (0.564 acre) parcel into two parcels with proposed Parcel 1 to be approximately 12,740 square feet (0.292 acres) and proposed Parcel 2 to be approximately 11,840 square feet (0.272 acres); removal of an existing fence, block walls, patio, patio cover, steps and walkway; construction of one new uncovered parking space and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 - 2. **Future Development.** All future development on the property shall be subject to the following conditions:
 - a. All future construction shall comply with the applicable conditions of approval contained in Section E. "Construction Implementation Requirements."
 - b. **Permeable Paving.** Permeable paving shall be provided in the driveway for Parcel 1 to the extent feasible.
 - c. **Guest Parking.** Adequate space shall be provided on Parcel 1 to accommodate two guest vehicles.
 - 3. **Uninterrupted Water Flow.** The Owner(s) of each newly created parcel shall allow for the continuation of any historic flow of water onto their newly created parcels including water from adjacent sources such as, but not limited to, public or private property drainage swales, natural watercourses, conduits, runoff from public or private roads, etc, as may be deemed appropriate.
 - 4. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
- C. **Public Works Submittal For Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval prior to processing the approval of the Parcel Map:
 - 1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.

- 2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
- San Miguel Avenue Public Improvements. The Owner shall submit building 3. plans for construction of improvements along the property frontage on San As determined by the Public Works Department, the Miguel Avenue. improvements shall include new and/or remove and replace to City standards, the following: two residential style driveway aprons modified to meet ADAAG Guidelines for accessibility in the Right of Way, curb and gutter if existing driveway approach is narrowed, retire the existing Cobra Head and replace with a Dome Style lamp on the existing concrete fluted pole, slurry seal a minimum of 20 feet beyond the limits of all trenching (if any), underground service utilities, preserve and/or reset survey monuments and contractor stamps if any, supply and install directional/regulatory temporary traffic control signs per the CA MUTCD during construction, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Please note that these conditions are in addition to the standard submittal requirements for each department.
 - 1. **Public Works Department.**
 - a. **Public Improvement Plans.** Public Improvement Plans as identified in condition C.3 "San Miguel Avenue Public Improvements" shall be submitted to the Public Works Department for review and approval.
 - b. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

2. Community Development Department.

a. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.
 - 1. **Construction Contact Sign.** Immediately after any Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet if in a single family zone.
 - 2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
 - 3. Unanticipated Archaeological Resources Contractor Notification. Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to,

redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- F. **Prior to Recordation of the Map.** Prior to recordation of the Map, the Owner of the Real Property shall complete the following:
 - 1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 - 2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, including utility service undergrounding and installation of street trees and street lights, shall be completed, and signed off by the Public Works Inspector.
 - 3. **Complete Private Improvements.** All of the required onsite improvements shall be completed and signed off by the City Building Inspector.

G. General Conditions.

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

2. **Approval Limitations.**

- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
- b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
- 3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of the first building permit application related to this project or prior to recordation of the Map, whichever comes first.
- 4. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer approval of the Project is ultimately appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

This motion was passed and adopted on the 29th day of June, 2011 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Kathleen Goo, Staff Hearing Officer Secretary

Date

PLEASE BE ADVISED:

- 1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
- 2. If the scope of work exceeds the extent described in the Modification, Coastal Development Permit, and Tentative Subdivision Map request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
- 3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
- 4. PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit. The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved by the Staff Hearing Officer.
- 5. NOTICE OF APPROVAL TIME LIMITS: The Staff Hearing Officer's action approving the Modification shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. An extension is granted by the Community Development Director prior to the expiration of the approval; or
 - b. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

6. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Staff Hearing Officer action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

- a. Otherwise explicitly modified by conditions of approval for the coastal development permit.
- b. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.

c. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

7. <u>Notice of Tentative Subdivision Map Time Limits</u>:

The Staff Hearing Officer action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

8. Notice of Time Limits For Projects With Multiple Approvals (S.B.M.C. § 28.87.370):

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.